Debt Collection Practices: The Need for Comprehensive Legislation

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Debt Collection Practices: The Need for Comprehensive Legislation

I. INTRODUCTION

In our consumer-oriented economy supported by credit cards, easy-payment plans, and deferred payments, the buyer often encounters the problem of how to pay his debts while the seller faces the problem of how to collect his money. Society has always sanctioned the payment of just debts and has provided legal collection machinery. In fact, the creditor may have traditionally been the favorite of the law. Only recently has the United States Supreme Court recognized that time-honored practices such as confession of judgment, garnishment, and replevin may be violative of constitutional guarantees of due process.

1. See, e.g., Pa. R. Civ. P. 1251-79 (foreign debtor's attachment). These rules were recently declared unconstitutional in Jonnet v. Dollar Sav. Bank, 530 F.2d 1123 (3d Cir. 1976). The court stated that its decision did not hold foreign attachment procedures unconstitutional per se, but Pennsylvania was required to provide procedures consistent with fundamental fairness in the interests of both creditors and debtors. Id. at 1130. See Pa. R. Civ. P. 3025-49 (revival of judgment); id. 3101-49 (garnishment and attachment to enforce money judgment).

2. See Pa. R. Civ. P. 2950-76. In Swarb v. Lennox, 405 U.S. 191 (1972), the Court held that Pennsylvania's procedure for confession of judgment was not unconstitutional per se but the Court recognized there could be an unconstitutional deprivation of due process if the debtor did not knowingly waive his right to a hearing. See also Note, Swarb v. Lennox: The Viability of Repeated Judicial Attacks on Confessions of Judgment in Pennsylvania, 34 U. Pitt. L. Rev. 103 (1972).


No one would seriously question the right of a creditor to repayment of his loan. When a debtor defaults, the creditor has a legitimate right to employ lawful remedies to protect his interests, and may seek the assistance of a professional debt collector. The efficient administration of justice encourages these private debt collection efforts to prevent the courts from becoming overburdened. Nevertheless, collection measures should be conducted fairly and reasonably. This comment will be concerned with legal remedies for the debtor when the creditor resorts to offensive, extrajudicial methods in his debt collection effort.

In the commercial arena, collection techniques range from friendly coercion to blatant harassment, since it is profitable for debt collectors to resort to any method which brings results. Frequently, the easiest and most practical means available to the debt collector is to harass the debtor until payment is made. Examples of collection harassment include: the use of letters and forms resembling legal notices and court orders; letters and phone calls threatening legal action or the use of physical force; visits and phone calls at inconvenient hours to the debtor, or his friends and relatives; contacts with employers asking assistance in collecting the debt; and impersonation of attorneys and legal officers. Harassment is often employed because consumer-debtors are peculiarly vulnerable to such tactics and because legal avenues may not practically be available to the creditor. There are three main reasons why harassment is prevalent. First, the borrower is usually ignorant of his legal rights and fears the lender. Second, it is usually cheaper to collect through these extralegal tactics than to employ the proper legal channels; if the amounts borrowed are small, attorney’s fees and court costs might exceed the amount of indebtedness. Third, the lender may be charging usurious interest or violat-

8. Id. See also Birkhead, Collection Tactics of Illegal Lenders, 8 Law & Contemp. Prob. 78 (1941); Kelly, Legal Techniques for Combating Loan Sharks, 8 Law & Contemp. Prob. 88 (1941).
ing other consumer protection directives, and runs the risk of making the debt uncollectable, or subjecting himself to criminal penalties if he utilizes legal processes.

How can the consumer-debtor who believes the creditor has acted unfairly or unreasonably protect himself? The debtor could bring a civil action in tort against the creditor, who might also be subject to criminal penalties. However, after examining these traditional remedies in Pennsylvania, it becomes clear that the alternatives now available to the debtor are ineffective. Comprehensive, protective statutory measures are needed.

II. TRADITIONAL DEBTOR REMEDIES

The tort remedies which may be available to protect the harassed debtor include abuse of process, defamation, invasion of privacy, and infliction of mental distress. In addition, Pennsylvania’s criminal code contains two sections which may offer some protection: section 5504 prohibits harassment by communication and section 7311 prohibits certain collection agency practices. These remedies will be examined in this section.

A. Abuse of Process

The tort of abuse of process evolved at common law to provide a remedy where the legal process is properly invoked by the creditor, but with an ulterior motive of obtaining a collateral advantage not involved in the proceeding. There must be present a form of extortion—the creditor’s use of the legal process to induce negotiation, rather than the issuance, or any formal use of the process by the creditor, constitutes the tort available to the debtor. Pennsylvania


11. See note 9 supra.


13. Id. § 7311.

has long recognized the action for abuse of process.\textsuperscript{15} In the majority of reported Pennsylvania cases involving the creditor-debtor relationship, the debtor brought an action for abuse of process against a creditor who had enforced a valid confession of judgment clause\textsuperscript{16} or who had joined in filing an involuntary bankruptcy petition.\textsuperscript{17} The courts have concluded the defendant creditor was not liable for abuse of process because he was merely carrying out the legal process to its authorized conclusion. Since the purpose of the original action was to collect money, the creditor's action had not been brought for an unlawful ulterior purpose.

As in any case where motive or intent is a factor, the plaintiff in an abuse of process suit assumes a difficult burden of proof. His success depends upon his ability to show that the defendant brought the original action as a form of coercion or extortion.\textsuperscript{18} Pennsylvania courts seem more willing to believe that abuse of process occurred where criminal prosecution was brought by the creditor in order to recover a debt,\textsuperscript{19} than where a civil action to enforce a judgment was brought.\textsuperscript{20} However, even though criminal prosecutions are not to be

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\textsuperscript{13} 1967); \textit{id.} comment \textit{a.} Abuse of process must be distinguished from malicious use of process or malicious prosecution; in the latter actions, the original initiation of the action by the creditor is unjustified and wrongful. Malicious use of process involves misuse of civil actions; malicious prosecution refers to misuse of criminal sanctions. \textit{Prosser, supra, §§ 119-20, at 834-56. See Hughes v. Swinehart, 376 F. Supp. 650 (E.D. Pa. 1974); Sachs v. Levy, 216 F. Supp. 44 (E.D. Pa. 1963).}


\textsuperscript{18} \textit{Prosser, supra} note 14, § 121, at 857.

\textsuperscript{19} Defendant creditor's demurrer was dismissed in the following cases: Sachs v. Levy, 216 F. Supp. 44 (E.D. Pa. 1963) (charges of larceny by bailee and fraudulent conversion brought to coerce payment of bill); West v. Lipsitz, 58 Lanc. L. Rev. 327 (Pa. C.P. 1963) (prosecution for defrauding roominghouse keeper brought to collect another debt); Kohl v. Stekervetz, 58 Lanc. L. Rev. 235 (Pa. C.P. 1962) (prosecution for fraudulent conversion of automobile brought to harass plaintiff).

\textsuperscript{20} Courts readily dismiss an abuse of process action after execution of a cognovit clause.
used by creditors for the purpose of collecting accounts, the debtor plaintiff in an abuse of process action based on a criminal prosecution must prove that the criminal charges were brought by the creditor with the sole intention to collect the debt. The scarcity of Pennsylvania cases in which a debtor has been successful in an action for abuse of process suggests that the action is an ineffective remedy for combating harassment of consumer-debtors.

B. Defamation

The torts of defamation involve communications which diminish the esteem, respect, goodwill, or confidence enjoyed by the plaintiff because of adverse, derogatory, or unpleasant feelings or opinions formed against him. Theoretically, it is possible for a debtor to bring an action against the creditor for either of the twin defamation torts of libel or slander, where appropriate, alleging injury to reputation by the creditor's actions. A number of obstacles make the defamation suit impractical. Illogical rules, poorly defined requirements, and the disharmony of court decisions concerning them, make defamation complex and confusing. Moreover, the defenses of qualified privilege and truth, recognized in defamation actions, militate against the defaulting debtor. These factors combine to render libel and slander actions unsuitable as avenues for recovery for the consumer-debtor.

Pennsylvania cases do recognize that words injurious to the con-
duct of a business or profession are actionable per se; the imputation of insolvency, financial embarrassment, unworthiness of credit, or failure in business have been considered defamatory. The mere accusation that an individual has refused to pay a bill, however, is not defamatory unless the individual's credit rating is connected to his occupation. Courts have come to the rescue of businesses harmed by false credit reports, but this does not help the consumer-debtor if he is not engaged in a business which will be affected by such false statements; and, since the debtor does owe money, an allegation of indebtedness is not the sort of statement a defamation suit will remedy. The lack of success in Pennsylvania


25. Eppolito v. Finell, 21 Bucks 372 (Pa. C.P. 1971) (informing debtor's employer that debtor refused to pay balance of car repair bill not defamatory per se since continued employment not jeopardized); cf. Tomol v. Shroyer Publications, Inc., 33 Northumb. L.J. 87 (Pa. C.P. 1961) (communication causing damage to one's reputation for veracity or honesty is actionable per se, whether it tends to affect trade, business, or profession).


27. Where plaintiff has been able to recover for a false credit report it has been because the defendant has abused his qualified privilege to report. Pennsylvania has long recognized that a statement "relating to a subject in which the person making the communication is interested or in regard to which he has a social or moral duty, when made to one having a like interest or duty," is conditionally privileged. Williams v. Kroger Grocery & Baking Co., 337 Pa. 17, 19-20, 10 A.2d 9 (1940), citing Restatement of Torts § 595(1) (1938). See also Harbridge v. Greyhound Lines, Inc., 294 F. Supp. 1059 (E.D. Pa. 1969); Rankin v. Phillippe, 206 Pa. Super. 27, 211 A.2d 56 (1965).

This privilege has been specifically applied to credit reporting agencies; the plaintiff must demonstrate that the privilege was abused. Baird v. Dun & Bradstreet, Inc., 446 Pa. 266, 285 A.2d 166 (1971). See also Pa. Stat. Ann. tit. 12, § 1584(a) (Supp. 1976); Restatement (Second) of Torts § 595, comment g (Tent. Draft No. 20, 1974); Ullman, Liability of Credit Bureaus after Fair Credit Reporting Act: The Need for Further Reform, 17 Vill. L. Rev. 44 (1971); Note, Tort Liability of Credit Investigating Agencies, 31 Temp. L.Q. 50 (1957).

cases where a consumer-debtor has brought a defamation action against the creditor supports the conclusion that it is an ineffective remedy for harassment.\textsuperscript{29}

\section*{C. Invasion of Privacy}

A right of privacy was not acknowledged at common law, but it has had a rapid development in the twentieth century.\textsuperscript{30} Commentators recognize invasion of privacy as a combination of four separate torts:\textsuperscript{31} intrusion upon seclusion, appropriation of name or likeness, publicity given to private life, and publicity placing a person in false light.\textsuperscript{32} A key element in a cause of action under any of the four categories is a wrongful intrusion on a person's activities which causes mental suffering, shame, or humiliation in a person of ordinary sensibilities.\textsuperscript{33} The Pennsylvania Supreme Court has recog-
nized the right of privacy, but its parameters are not clearly delineated. In recent cases, Pennsylvania has adopted the combination tort discussed above. The plaintiff must show that the defendant caused him to be subjected to publicity which is highly offensive to a reasonable man.

In the creditor-debtor relationship, a common form of conduct giving rise to a possible action for invasion of privacy is the creditor's notification to an employer that the employee has not paid a debt. Based on section 652D of the Restatement (Second) of Torts, the Supreme Court of Pennsylvania in Vogel v. W.T. Grant Co., recognized that such conduct might justify an action; however, the court required the plaintiff to demonstrate that unreasonable publicity had been given to a private fact. Applying this test, if there is insufficient publicity, or if the fact publicized is not a private one, no actionable invasion of privacy would exist. Thus, the supreme court rejected the trial court's conclusion in

34. The first case apparently recognizing the right of privacy in Pennsylvania was Waring v. WDAS Broadcasting Station, Inc., 327 Pa. 433, 194 A. 631 (1937) (performer has property right in and control of reproduction of his performances, whether original compositions or interpretations of another's works). But see Schnabel v. Meredith, 378 Pa. 609, 614, 107 A.2d 860, 863 (1954) (questioned whether privacy right existed in Pennsylvania).

35. See, e.g., Vogel v. W.T. Grant Co., 458 Pa. 124, 327 A.2d 133 (1974) (recovery denied to plaintiffs who claimed creditor's communications with employers and relatives were invasions of privacy). See notes 40-49 and accompanying text infra. See also Marks v. Bell Tel. Co., 460 Pa. 73, 331 A.2d 424 (1975) (company's practice of recording all incoming and outgoing calls of police department not an invasion of privacy since no evidence that tapes were replayed). Bennet v. Norban, 396 Pa. 94, 151 A.2d 476 (1959) (search of pockets and purse of woman by manager after she left store an invasion of privacy since it suggested she was a felon).


39. Restatement (Second) of Torts § 652D (Tent. Draft No. 13, 1967) provides: "One who gives publicity to matters concerning the private life of another, of a kind highly offensive to a reasonable man, is subject to liability to the other for invasion of his privacy." Restatement (Second) of Torts § 652D(b) (Tent. Draft No. 21, 1975) adds that the matter publicized must be of a kind which is "not of legitimate concern to the public."


41. Id. at 131, 327 A.2d at 137. See Restatement (Second) of Torts § 652D, comments b-d (Tent. Draft No. 13, 1967).

42. 458 Pa. at 131, 327 A.2d at 137. See, PROSSER, supra note 14, § 117, at 810.
Vogel" that by sending form letters to the employers of the debtor plaintiffs, and by telephoning their relatives, the defendant company invaded plaintiffs' privacy. The court denied the lower court's order for injunctive relief on the ground that notification to a few third parties was not sufficient publicity to satisfy its test. 

Although the court did not determine how many outside parties must be notified to make the creditor's disclosures an actionable publication, it did suggest that the publicity must bring the matter to the attention of the public at large, or to so many persons that the matter is certain to become one of public knowledge; a mere notification or communication to an employer is not enough, nor would a few contacts with the debtor's relatives or neighbors be sufficient. The court apparently believes that such "friendly coercion" is a reasonable means of expediting payment.

Even if the plaintiff can meet Vogel's requirements for publicity, under section 652D of the Second Restatement he must also prove that the creditor's actions were unreasonable. The supreme court's adoption of an analysis of invasion of privacy based on the Second Restatement suggests that a harassed debtor might also be able to bring an action under section 652B for intrusion upon seclusion, or

43. Vogel v. W.T. Grant Co., 121 Pitt. L.J. 137 (Pa. C.P. Allegh. Co. 1972). The trial court relied on the definition of invasion of privacy found in RESTATEMENT OF TORTS § 867 (1939): "A person who unreasonably and seriously interferes with another's interest in not having his affairs known to others or his likeness exhibited to the public is liable to the other." Since the creditor company was aware of the debtors' whereabouts, the trial court concluded that calls and letters to the plaintiffs' employers and relatives were impermissible interferences with their privacy, and enjoined the company from such activity. Vogel v. W.T. Grant Co., supra at 138.

44. The letters read in part: "Will you please request the above named employee to call at once concerning a matter of importance with which he/she is already acquainted." There was no actual reference to indebtedness in the letter. 458 Pa. at 127 n.6, 327 A.2d at 135 n.6.

45. There was no allegation that any of the calls were offensive or made at inconvenient times. Id. at 128, 327 A.2d at 136.

46. Id. at 133, 327 A.2d at 138.

47. Id. at 131-33, 327 A.2d at 137-38.


50. 458 Pa. at 132, 327 A.2d at 137.
under section 652E for publicity placing a person in a false light;\textsuperscript{51} and these sections, like section 652D, require conduct to be "highly offensive to a reasonable man."\textsuperscript{52} Thus, the plaintiff who meets the initial publicity requirements in a privacy action still has the heavy burden of proving unreasonableness. In light of these problems, despite the Pennsylvania Supreme Court's acceptance of the Second Restatement view,\textsuperscript{53} it is premature to conclude that privacy actions provide an effective remedy for the harassed debtor.\textsuperscript{54}

D. Infliction of Mental Distress

The tort of intentional infliction of mental distress is also a rap-

\begin{itemize}
  \item 51. **Restatement (Second) of Torts** §§ 652B, E (Tent. Draft No. 13, 1967) provide:
    \begin{itemize}
      \item § 652B. Intrusion upon Seclusion
        One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly [sic] offensive to a reasonable man.
      \item § 652E. Publicity Placing a Person in False Light
        One who gives to another publicity which places him before the public in a false light of a kind highly offensive to a reasonable man, is subject to liability to the other for invasion of his privacy.
    \end{itemize}
  \item A more recent draft of the Second Restatement adds that the actor must have had knowledge of the falsity, or acted in reckless disregard of the truth, for liability to result under § 652E. **Restatement (Second) of Torts** § 652E (Tent. Draft No. 21, 1975).
  \item 52. See notes 39 & 51 supra. This standard sharply contrasts with **Restatement of Torts** § 867 (1939), which required only unreasonable interference. For the text of § 867 see note 43 supra.
  \item 53. In light of recent Supreme Court holdings discussed in note 30 supra, the American Law Institute has modified the requirements for actionable invasion of privacy. See **Restatement (Second) of Torts**, Preliminary Note at 86-87 (Tent. Draft No. 21, 1975).
  \item 54. While no Pennsylvania case has been found where publication of a debt has been deemed an unreasonable invasion of privacy, there are existing examples from other jurisdictions. See, e.g., Santiesteban v. Goodyear Tire & Rubber Co., 306 F.2d 9 (5th Cir. 1962) (creditor removed tires and tubes from debtor's car); Norris v. Moskin Stores, Inc., 272 Ala. 174, 132 So. 2d 321 (1961) (creditor's agent called employer and relatives of debtor, alleging an extramarital affair); Rugg v. McCarty, 173 Colo. 170, 476 P.2d 753 (1970) (calls and letters to debtor and letter to employer); Gouldman-Taber Pontiac, Inc. v. Zerbst, 213 Ga. 682, 100 S.E.2d 881 (1957) (letter sent to employer); Brents v. Morgan, 221 Ky. 765, 299 S.W. 967 (1927) (sign in window proclaimed debtor refused to pay bill); Summit Loans, Inc. v. Pecola, 265 Md. 43, 288 A.2d 114 (1972) (phone calls over 5 month period); Biederman's of Springfield, Inc. v. Wright, 322 S.W.2d 892 (Mo. 1959) (creditor followed debtor and addressed him with loud threats and offensive remarks); Housh v. Peth, 165 Ohio St. 35, 133 N.E.2d 340 (1956) (phone calls to home and school where debtor taught); Tollefson v. Price, 247 Ore. 398, 430 P.2d 990 (1967) (published notice in trade and local paper that creditor would sell notes and accounts to highest bidder); Bowden v. Spiegel, Inc., 96 Cal. App. 2d 793, 216 P.2d 571 (1950) (call made to debtor at neighbor's home late at night).\
\end{itemize}
The current trend is to allow recovery for conduct that exceeds the bounds tolerated by decent society and which is intended by the tort-feasor to cause serious mental disturbance. Recovery for intentionally inflicted injury, even without accompanying physical impact, has been approved. While infliction of mental distress might give the seriously aggrieved debtor a potential cause of action, he faces the same problem as in an action for invasion of privacy—he must be able to show that the debtor acted in an outrageous manner. Two factors are helpful to the debtor in developing his suit. First, the extreme and outrageous nature of the conduct can arise not so much from what is done, as from the defendant's abuse of some relation or position which gives him actual or apparent power to harm the plaintiff. Liability can also rest on a prolonged course of harassing conduct rather than an isolated event.

Pennsylvania originally required the plaintiff attempting to recover for emotional distress to also prove some physical injury. Although Pennsylvania courts now permit recovery for serious mental or emotional distress directly caused by defendant's intentional and wanton acts, no Pennsylvania case which has allowed such an


56. Prosser, supra note 14, § 12, at 56; Restatement (Second) of Torts § 46 (1965); id. comment d.

57. See, e.g., Restatement (Second) of Torts § 46(1) (1965), which states:

One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm.

58. See note 52 and accompanying text supra.

59. See Prosser, supra note 14, § 12, at 56; Restatement (Second) of Torts § 46 (1965); id. comment e.

60. See Prosser, supra note 14, § 12, at 57.

61. Cucinotti v. Ortmann, 399 Pa. 26, 159 A.2d 216 (1960), reaffirmed the impact rule that there can be no recovery for unintentional injuries resulting from fright, nervous shock, or emotional distress, unless they are accompanied by physical injury or physical impact. See note 62 infra.

62. Niederman v. Brodsky, 436 Pa. 401, 261 A.2d 84 (1970), overturned the impact rule, at least where the plaintiff was in personal danger of physical impact and actually did fear the physical impact. In Papieves v. Kelly, 437 Pa. 373, 378, 263 A.2d 118, 121 (1970), the court allowed recovery for "intentional, outrageous or wanton conduct which is peculiarly calculated to cause . . . serious mental or emotional distress." Since Papieves, recovery for mental
action in the debtor-collector situation was discovered.⁶³

E. Criminal Sanctions

There are criminal statutes in Pennsylvania that arguably offer some protection to the harassed debtor, but these also appear to be ineffective.

1. Harassment by Communication or Address

Section 5504 of Pennsylvania’s criminal code⁶⁴ makes certain


Louisiana and Texas have apparently created a separate tort for unreasonable collection efforts; however, their courts have not specifically defined the tort. The activities of the creditors involved in the suits are similar to those which courts in other states have classified as wanton and outrageous conduct, and for which they permit recovery for mental distress. For the Louisiana view see Pack v. Wise, 155 So. 2d 909 (La. App.), appeal denied, 245 La. 84, 157 So. 2d 231 (1963) (employer informed of debtor’s default after debtor’s attorney notified creditor of asserted defense). See also Booty v. American Fin. Corp., 224 So. 2d 512 (La. App. 1969); Passman v. Commercial Credit Plan, 220 So. 2d 758 (La. App. 1969); Boudreaux v. Allstate Fin. Corp., 217 So. 2d 439 (La. App. 1968); 38 Tul. L. Rev. 591 (1964).


kinds of anonymous phone calls involving lewd, lascivious, or indecent language misdemeanors. Since the debt collector usually identifies himself and may not use vile language, this section is not ordinarily available to protect the debtor. However, the statute also prohibits repeated communications and those made at extremely inconvenient hours. This provision is a new addition to the prior section, which was clearly intended to prevent anonymous and obscene phone calls. While the new subsection may be helpful to some harassed debtors, it is unclear whether it will be an effective remedy.

2. Unauthorized Practice of Law

The unauthorized practice of law is also a misdemeanor. This criminal sanction is inapplicable to most debt collectors because the creditor seldom represents that he is entitled to practice law; instead, he may prey on the debtor's fear of subsequent legal action. The debtor simply does not know what can or cannot legally be done to him.

3. Unlawful Collection Agency Practices

Section 7311 of the criminal code makes certain collection

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65. The statute provides that a person commits a third degree misdemeanor if, with intent to harass, he calls another "without intent of legitimate communication or addresses to or about such other person any lewd, lascivious or indecent words or language or anonymously telephones another person repeatedly." Id. § 5504(a)(1).

66. Id. § 5504(a)(2).

67. The earlier provision stated:

Whoever telephones another person and addresses to or about such other person any lewd, lascivious or indecent words, language, suggestion or proposal, or solicitation to engage in fornication or any other immoral act, or whoever anonymously telephones another person repeatedly for the purpose of annoying, molesting or harassing such other person or his or her family, is guilty of a misdemeanor . . . .


69. Prosecutions under this statute have not involved collection activities, but cases do suggest the difficulties of applying the subsection. See, e.g., Commonwealth v. Houck, 233 Pa. Super. 512, 335 A.2d 389 (1975) (call saying victim should be thrown out of church is de minimis infraction); Commonwealth v. Hahn, 70 Pa. D. & C.2d 79 (C.P. York Co. 1975) (no prosecution for leaflet charging labor leader with sexual misconduct).

70. PA. STAT. ANN. tit. 17, §§ 1608-10 (1962). Section 1608 forbids any person to practice law, or to hold himself out to the public as being entitled to practice law, unless he has been duly and regularly admitted to practice law.

71. See Berger, supra note 7.

agency practices misdemeanors,\textsuperscript{73} perhaps in recognition of the fact that while the debt collector may not actually represent himself as practicing law, he may leave the debtor with the impression that the collector can perform legal functions. A beneficial aspect of section 7311 is its prohibition of coercion or intimidation of the debtor by the use of pseudo-legal forms and threatened legal proceedings.\textsuperscript{74} At this writing, there were no reported cases to demonstrate the effectiveness of the section.\textsuperscript{75}

As with all criminal statutes, the problems of enforcement affect the statutes discussed above. The aggrieved debtor might not know that a law has been broken when he is the victim of unreasonable creditor action. Even if he makes a private complaint, he faces the task of convincing the proper authority to prosecute the creditor. Since the infractions are merely third degree misdemeanors,\textsuperscript{76} the prosecutor might conclude that the violations are de minimis.\textsuperscript{77} Finally, although the new Sentencing Code\textsuperscript{78} does permit restitution as a penalty,\textsuperscript{79} criminal sanctions traditionally do not compensate the victim.

\textsuperscript{73} Id. § 7311(g). Among its proscriptions, § 7311 prohibits the collection agency from appearing for, or representing a creditor in any proceeding, and from buying or taking an assignment of a creditor's claim for the purpose of collecting or enforcing payment of the claim. In addition, it is unlawful for a collection agency to furnish legal services, or to represent a debtor in a settlement or adjustment of his affairs. The section also forbids a collection agency to solicit employment for attorneys. Pa. Consol. Stat. Ann. tit. 18, §§ 7311(a)-(e) (1973).

\textsuperscript{74} The section provides:

(1) It is unlawful for a collection agency to coerce or intimidate any debtor by delivering or mailing any paper or document simulating, or intending to simulate, a summons, warrant, writ, or court process as a means for the collection of a claim, or to threaten legal proceedings against any debtor.

Id. § 7311(f)(1).


\textsuperscript{79} Id. § 1321(c). In choosing among sentencing alternatives, the court is to be guided by the principle that the sentence must be consistent with the "protection of the public, the gravity of the offense, and the rehabilitative needs of the defendant." Id. § 1321(b). See also id. §§ 1322-26.
III. State Debtor Protection Statutes

Existing tort remedies and criminal sanctions do not adequately safeguard the rights of the harassed debtor, despite the probable expansion of actions for invasion of privacy and infliction of mental distress. The overall complexity and fractionalization of the tort remedies and the limited effect of available criminal sanctions lead to a proposal for specific statutory prevention of improper collection practices, with effective remedies designed to protect the debtor as well as to compensate him when necessary. Attempts to provide statutory protection and relief have been undertaken in Pennsylvania and other states. The majority of these attempts, however, have been incomplete, and a review of them suggests comprehensive legislation is necessary.

A. Pennsylvania's Consumer Protection Statutes

Even before the recent trend toward consumer protection laws, the Pennsylvania General Assembly enacted measures intended to protect citizens from commercial abuses by those who could benefit from their superior financial positions. Acts have been passed to establish a system of state control and regulation to insure honest and efficient use of the consumer’s resources in the areas of consumer loans, sales of motor vehicles, retail installment con-

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80. See Comment, Debt Collection, supra note 5, at 90-96.
82. The courts have interpreted the intent of measures such as the Small Loans Act, PA. STAT. ANN. tit. 7, §§ 6151-57 (1967), to be to protect the small and necessitous borrower. See Ritter Fin. Co. v. Myers, 401 Pa. 467, 165 A.2d 246 (1960); Lackawanna Thrift & Loan Corp. v. Kabatchnick, 145 Pa. Super. 52, 20 A.2d 903 (1941).
83. The policy expressed in the Motor Vehicle Sales Finance Act, PA. STAT. ANN. tit. 69, §§ 601-37 (1965), is typical:
   [I]t is hereby declared to be the policy of the Commonwealth of Pennsylvania to promote the welfare of its inhabitants and to protect its citizens from abuses presently existing . . . and to that end exercise the police power of the Commonwealth to bring under the supervision of the Commonwealth all persons engaged in the business of extending consumer credit . . . to establish a system of regulation for the purpose of insuring honest and efficient consumer credit service . . . and to provide the administrative machinery necessary for effective enforcement.
   Id. § 602(d).
tracts,\textsuperscript{86} retail advertising,\textsuperscript{87} and home improvement sales.\textsuperscript{88} The Pennsylvania legislature has, however, failed to provide a definitive statutory remedy for the harassed debtor.\textsuperscript{89}

\textbf{B. Collection Agency Statutes}

With the adoption of section 7311 of the Crimes Code,\textsuperscript{90} Pennsylvania took a limited first step toward controlling abusive tactics of collection agencies.\textsuperscript{91} However, section 7311 covers only one small area of the problem—the use of techniques that mislead the debtor about the legal status of actions being taken against him.\textsuperscript{92} Other states have taken stronger action. Some require that collection agencies be licensed and bonded, and that they keep extensive records.\textsuperscript{83} Licensing itself does not necessarily provide any more pro-

\textsuperscript{86} See the Goods and Services Installment Sales Act, PA. STAT. ANN. tit. 69, §§ 1101-2303 (Supp. 1976). The Act regulates installment accounts and add-on accounts, and limits interest and service charges.

\textsuperscript{87} See the Unfair Trade Practices and Consumer Protection Law, PA. STAT. ANN. tit. 73, §§ 201-1 to -9 (1971), which forbids deceptive advertising and pricing.

\textsuperscript{88} See the Home Improvement Finance Act, PA. STAT. ANN. tit. 73, §§ 500-101 to -602 (1971).

\textsuperscript{89} A bill regulating and providing penalties for unfair debt collection practices was submitted to the Pennsylvania General Assembly in 1973. Pa. House Bill 649, Printer's No. 3489 (March 26, 1973). The provisions of the bill were substantially the same as those of H.R. 10191, 94th Cong., 1st Sess. (1975), discussed at notes 121-61 and accompanying text infra; the bill was similar in coverage to laws recently enacted by other states, discussed at notes 100-14 and accompanying text infra. Although the bill was passed by the House on January 22, 1974, and was approved in amended form by the Senate on September 24, 1974, the measure died when the House failed to concur with the Senate amendments on October 1, 1974; HISTORY OF HOUSE BILLS AND RESOLUTIONS—SESSIONS OF 1973 AND 1974, at A-88 (1974). This bill was reintroduced in 1975. Pa. House Bill 167, Printer's No. 3506 (Jan. 28, 1975). Once the bill received final House approval, it was referred to the Senate and reported out of Committee on June 7, 1976. It was again referred to Committee on June 22, 1976. Letter from C.L. Schmitt, Chairman, House Consumer Protection Committee, to this writer, Sept. 8, 1976.

\textsuperscript{90} PA. CONSOL. STAT. ANN. tit. 18, § 7311 (1973).

\textsuperscript{91} See notes 72-75 and accompanying text supra.

\textsuperscript{92} Similar provisions in other states forbidding the use of misleading notices and forms include: IND. ANN. STAT. § 35-18-13-2 (1975); MISS. CODE ANN. § 97-9-1 (1972); N.Y. PENAL LAW § 190.50 (McKinney 1975). A few states' provisions are limited to debt adjusting. See MONT. REV. CODES ANN. §§ 18-401 to -03 (Supp. 1975); MO. ANN. STAT. § 425.010 (Supp. 1976); N.H. REV. STAT. ANN. 399-D:1 (Supp. 1973); OHIO REV. CODE ANN. §§ 4710.01-.02 (Anderson Supp. 1975); TENN. CODE ANN. § 39-3411 (1975); VT. STAT. ANN. tit. 8, § 4861 (1971).

\textsuperscript{93} See, e.g., ALA. CODE tit. 51, § 492 (1958); ALASKA STAT. § 8.24.011 (1973); MASS. GEN. LAWS ANN. ch. 93, § 24 (1972); MICH. STAT. ANN. § 19.655 (1975); N.J. STAT. ANN. 45:18-1 (1963); N.D. CENT. CODE §§ 13-05-02 to -07 (1971); ORE. REV. STAT. § 697.010 (1974); UTAH
tection for the debtor, but at least it is one way to insure that existing regulations are enforced.

Recently, other states have enacted extensive provisions designed to curb unreasonable collection agency practices. The collection agency has been defined as any person, association, partnership, or corporation which collects debts for compensation or other valuable consideration. While these measures exceed the protection offered in Pennsylvania, they still fail in the sense that collection agencies are not the only culprits of abusive collection practices. One need only recall that the defendant in Vogel was a department store attempting to collect its own debts; the Vogel defendant might not fall within the purview of this statutory definition. A redeeming feature of these statutes, however, is their listing of prohibited practices. Common tactics which are forbidden include: advertising claims for sale; using "deadbeat" lists; giving the impression of law enforcement; using pseudo-legal forms; using abusive, profane, or obscene language; and contacting the debtor’s employer. These practices reflect methods actually used by the unethical collection agency and therefore may offer some relief to the harassed debtor.

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95. See, e.g., ILL. ANN. STAT. ch. 121½, § 802.02 (Smith-Hurd Supp. 1976).

96. See notes 72-74 and accompanying text supra. Section 7311 only applies to the professional collection agency, or

[a] person, other than an attorney at law . . . who, as a business, enforces, collects, settles, adjusts, or compromises claims, or holds himself out, or offers, as a business, to enforce, collect, settle, adjust, or compromise claims.


97. See Comment, Debt Collection, supra note 5, at 88.

98. Other examples of non-collection agency offenders may be found in cases cited at notes 54 & 63 supra.

IV. DEBT COLLECTION PRACTICES ACTS

As an alternative to reliance on either the traditional tort remedies or the limited statutes described above, some states have adopted comprehensive legislation designed to protect the debtor; similar legislation is pending at the federal level. These statutes will be reviewed, since they appear to offer the appropriate relief to the debtor.

A. State Debt Collection Practices Acts

In contrast to the legislative response of most states to the harassed debtor problem, Iowa, Maryland, Texas, West Virginia, Wisconsin, and the District of Columbia have recently passed statutes prohibiting all unfair debt collection practices. These acts apply to any debt collector, not just the professional collection agency. Any person engaging directly or indirectly in debt collection, whether for himself, his employer, or others, may be affected, including one who sells or offers forms represented to be a collection scheme, device, or system intended to be used to collect debts. The statutes are intended to give the debtor maximum protection while they recognize the creditor's right to collect his money.

In general, the acts prohibit a wide range of unethical conduct and list illustrative examples of each kind of prohibited activity. The broad categories of illegal practices regulated by the acts are


101. In contrast with § 7311(h), the provisions of Pa. House Bill 649 would apply to all debt collectors, not only to professional collection agencies. The definition of a debt collector in the Pennsylvania legislative proposal is similar to that found in the acts of other states. See note 96 supra and text accompanying notes 102-04 infra.


threats of coercion; harassment or abuse; unfair and unconscionable means; fraudulent, deceptive, or misleading representations; and violations of the United States postal regulations. In some states the aggrieved debtor may recover civil damages and attorney's fees in addition to possible criminal penalties available against the creditor. These features eliminate some of the drawbacks of the traditional criminal statutes already discussed.

B. The Federal Debt Collection Practices Act

In 1968, recognizing the important role that credit plays in our national economy, the Congress of the United States passed the Consumer Credit Protection Act. The purpose of the Act was to insure that the consumer was aware of credit terms, used credit only with knowledge, and avoided the misguided use of credit. The Act


114. See text accompanying notes 76-79 supra.


116. Id. § 1601. See also Manning v. Princeton Consumer Discount Co., 533 F.2d 102 (3d
regulates credit terms, transactions and advertising;\textsuperscript{117} billing\textsuperscript{118} and reporting;\textsuperscript{119} it proscribes discrimination in credit.\textsuperscript{120} On October 9, 1975, an amendment was proposed to the Consumer Credit Protection Act which would prohibit abusive collecting tactics of creditors.\textsuperscript{121} The proposed Debt Collection Practices Act\textsuperscript{122} is substantively similar to the state debt collection practices acts already examined.\textsuperscript{123} The bill provides an effective means of protecting the consumer-debtor from unreasonable collection tactics.\textsuperscript{124} It would forbid harassment,\textsuperscript{125} unlicensed practice of law,\textsuperscript{126} false and misleading representations or impersonations,\textsuperscript{127} and other unfair practices.\textsuperscript{128} The provisions of the proposed act would be enforced

\textsuperscript{121} H.R. 10191, 94th Cong., 1st Sess. (1975). The act passed the House as H.R. 13720 on July 27, 1976; the Senate at this time has scheduled no action on the bill. Letter from Frank Annunzio, Chairman of the U.S. House Subcommittee on Consumer Affairs, to this writer, Sept. 8, 1976.
\textsuperscript{122} H.R. 10191, 94th Cong., 1st Sess. § 822 (1975).
\textsuperscript{123} See notes 100-14 and accompanying text supra.
\textsuperscript{124} The proposed legislation, however, applies only to professional debt collectors. H.R. 10191, 94th Cong., 1st Sess. § 801(e) (1975). When he introduced the bill, Representative Annunzio emphasized that the most flagrant offenders are collection agencies, rather than private creditors, since "[d]ebt collectors are in the business solely to collect debts of others, not to collect for products they sold or services they rendered." 121 CONG. REC. 5405 (daily ed. Oct. 9, 1975) (remarks of Representative Annunzio). In view of the present inadequate protection of the debtor, this definition seems too restrictive. See notes 96-98, 101-04 and accompanying text supra.
\textsuperscript{125} The bill provides: "No debt collector may harass or intimidate a consumer in connection with the collection or attempted collection of any alleged debt arising from a consumer credit transaction." H.R. 10191, 94th Cong., 1st Sess. § 802 (1975).
\textsuperscript{126} Specifically, the proposed legislation states: "No debt collector, not a licensed attorney, may engage in the practice of law (as defined by the jurisdiction in which he is engaging in such activity) in connection with the collection or attempted collection of any alleged debt." Id. § 803.
\textsuperscript{127} The pertinent section states:

No debt collector may make any false or misleading representation, written or oral, or engage in such practices or resort to any illegal means or methods of debt collection including impersonation, in connection with the collection of an alleged debt. . . .

\textit{Id.} § 804.
\textsuperscript{128} According to the proposed measure, "[n]o debt collector may engage in unfair practices in collecting or attempting to collect any alleged debt arising from a consumer credit transaction." \textit{Id.} § 805.
through civil liability, the private attorney general actions, and criminal prosecution; administrative enforcement by the Federal Trade Commission is contemplated. State laws which afford equal or greater protection would remain in force after passage of the bill. The major contribution of the bill would be its uniform attempt to prohibit the debt collector from harassing and intimidating the consumer. Harassment is defined through a list of examples which are not intended to be exhaustive. Included on the list are prac-

129. The debt collector shall be liable for
   (1) any actual damage . . . including any incidental, consequential, or special damages . . .
   (2)(A) not less than $100 nor more than $2,500 as determined by the court; or
   (3) in the case of any successful action . . . the costs of the action, together with a reasonable attorney’s fee . . . If the consumer is represented by a nonprofit organization . . . the organization shall be awarded a service fee, in lieu of an attorney’s fee . . .; and
   (4) such amount of punitive damages as the court may allow.
   (b) Upon proof of an intentional violation . . . such violation shall constitute a complete defense . . . to any alleged debt out of which the violation arose.
   (c) The appropriate United States district court may grant such equitable and declaratory relief as is necessary . . .

Id. § 811.

130. This section provides:
   (a) Any affected consumer, whether or not actually damaged, may bring a civil action . . .
   (b) Any bona fide consumer protection organization, whether or not actually damaged, may bring a civil action . . .
   (c) The person bringing an action under subsection (a) or (b) shall allege all such courses of conduct by the person subject to the requirements of this title that are claimed to be in violation and known to the person bringing the action. Such action shall be brought in the name of and for the United States as well as for the private plaintiff.

Id. § 812.

131. The bill provides that whoever willfully and knowingly “fails to comply with any requirement imposed under this title, shall be fined not more than $5,000 or imprisoned not more than one year or both.” Id. § 814(2).

132. Id. §§ 816-17.
133. Id. § 819.
134. Reflecting the bill’s limited coverage, the term “debt collector” refers to any person engaged in collecting or attempting to collect a debt owed or asserted to be owed to another. Id. § 801(e). See note 124 supra.
135. The bill applies only to “consumers,” i.e., those whose indebtedness was created for personal, family, or household purposes. H.R. 10191, 94th Cong., 1st Sess. §§ 801(c), (g) (1975).
136. Id. § 802.
tices which could be classified under the traditional torts discussed earlier: abuse of process, defamation, invasion of privacy, and infliction of mental distress. The benefit to the consumer is that he would no longer face the nearly impossible task of proving the creditor's intent, motives, and unreasonableness required in the common law tort actions. It would be sufficient for the consumer to show that he was in fact harassed by the debt collector. Of course, just as the fact finder previously had freedom in judging if the conduct was unreasonable or outrageous, under the proposed federal statute the fact finder would assess the conduct to see if it meets

137. See notes 14-63 and accompanying text supra.
138. Section 802(10) prohibits "threatening a consumer with imprisonment for failure to pay an alleged debt." Section 802(11) prohibits threatening that nonpayment of an alleged debt will result in the arrest of the consumer, or the seizure, garnishment, attachment, or sale of any property or wages without a court order. H.R. 10191, 94th Cong., 1st Sess. §§ 802(10)-(11) (1975).
139. The bill attempts to codify protection against defamatory statements or actions, including the following:

(8) The false accusation or threat to accuse falsely or threat to file an action in court falsely accusing any person of fraud or any other crime, or any conduct which would tend to disgrace such other person, or in any way subject him to the ridicule or contempt of society or his community;

(9) False accusations made to another person, including any credit reporting agency, or the threat to so falsely accuse, that a consumer is willfully refusing to pay a just debt;

(12) Disclosing or threatening to disclose information adversely affecting a consumer's reputation for creditworthiness with knowledge the information is false. Id. § 802.
140. Prohibited activities which might constitute invasion of privacy under common law include: publishing or causing to be published "deadbeat lists," id. § 802(4); advertising, or threatening to advertise, for sale a debt, id. § 802(5); bringing the existence of an alleged debt to the attention of friends, neighbors, employer, or the family of the consumer, except the consumer's spouse or attorney, id. § 802(14); using a form of communication with the debtor that would ordinarily be seen by a person other than the debtor that conveys information about the alleged debt, id. § 802(15); and making harassing or threatening phone calls or visits to the home or place of employment of a consumer, id. § 802(16).
141. The common law tort of mental distress is reflected in statutory sections prohibiting: the use or threatened use of violence or other criminal means to cause bodily harm to the consumer, or harm to his reputation or property, id. § 802(1); the use of abusive language, id. § 802(3); the use of "dunning letters" that simulate the legal process or are untrue, abusive, or misleading, id. § 802(13). Other sections prohibit harassing or threatening phone calls or visits to the consumer, or to his place of employment against his instructions, contacting the consumer at home more than twice in every week, and attempting to contact him at home early in the morning, late at night, or at other known inconvenient times. Id. §§ 802(16)-(18). The creditor also is prohibited from communicating with the consumer after he has been notified in writing that the consumer is represented by counsel. Id. § 802(19).
the statutory definition of harassment.\textsuperscript{142}

In addition to codifying existing tort law, the act would protect consumers from equally reprehensible, but more subtle tactics by forbidding false and misleading representations,\textsuperscript{143} and other unfair commercial practices.\textsuperscript{144} As with harassment, these practices are proscribed through illustrative examples rather than by exhaustive definition.\textsuperscript{145} Thus the proposed legislation would provide additional protection for the low-income consumer who may be most susceptible to misrepresentations and other abuses because he does not know what his legal rights are, or because the creditor's conduct may not easily be categorized as one of the traditional torts.\textsuperscript{146} The low-income consumer has been easy prey for the debt collector since he is more prone to buy on credit and fall behind on payments.\textsuperscript{147}

Under the act, the civil liability of the debt collector would be tailored to adequately compensate the particular plaintiff. Possible awards include compensatory damages,\textsuperscript{148} punitive damages,\textsuperscript{149} and attorney's fees;\textsuperscript{150} a judgment for the debtor may be a complete defense to the debt.\textsuperscript{151} These civil penalties permit the victimized, aggrieved debtor to be made whole, unlike criminal sanctions.\textsuperscript{152} Criminal penalties would be allowed for intentional failure by the creditor to comply with the law.\textsuperscript{153}

The specific provision for private attorney general actions\textsuperscript{154} would

\textsuperscript{142} Under the proposed legislation, one of the administrative tasks of the Federal Trade Commission is the interpretation of the bill's specific prohibitions. See H.R. 10191, 94th Cong., 1st Sess. §§ 816-17 (1975).

\textsuperscript{143} A misleading representation or impersonation includes: the use of any badge or uniform giving the impression of association with a law enforcement agency; using any psuedo-legal forms; misrepresenting the identity of the creditor or the debt collector; misrepresenting the amount or nature of the debt; and misrepresenting the legal processes available to the creditor. Id. § 804.

\textsuperscript{144} Examples of conduct labeled as unfair practices are obtaining waivers of the debtor's legal rights; threatening any type of legal action which cannot in fact be taken; and soliciting post-dated checks. Id. § 805.

\textsuperscript{145} The bill expressly provides that enumeration of violative conduct does not limit the effect of the act to those activities which are listed. See id. §§ 802-05.

\textsuperscript{146} See note 8 and accompanying text supra.

\textsuperscript{147} See, e.g., Comment, Debt Collection, supra note 5, at 82.


\textsuperscript{151} H.R. 10191, 94th Cong., 1st Sess. § 811(b) (1975). See note 129 supra.

\textsuperscript{152} See text accompanying notes 76-79 supra.

\textsuperscript{153} H.R. 10191, 94th Cong., 1st Sess. § 814 (1975). For the text of the section see note 131 supra.

\textsuperscript{154} See note 130 supra.
permit any consumer, whether injured or not, and any bona fide consumer protection organization to bring an action against a debt collector violating the act;\textsuperscript{155} this is a desirable feature.\textsuperscript{156} It recognizes that the consumer who is most harassed and intimidated by the debt collector may be ignorant of his legal right to avoid such harassment.\textsuperscript{157} The private attorney general provision also reduces the problem of unenforced existing criminal statutes,\textsuperscript{158} since any affected private citizen or consumer organization can bring a civil action.

Jurisdiction for enforcing rights or liabilities under the act would be in district court.\textsuperscript{159} The Federal Trade Commission would be given power to prescribe regulations to carry out the proposed provisions of the act, and to explain and clarify it.\textsuperscript{160} The Commission would determine through its regulations what conduct satisfies the statutory definitions of harassment, misrepresentation, or unfair practices.\textsuperscript{161}

The proposed legislation has been criticized for concentrating its restrictions on the practices of professional debt collectors. Sponsors of the bill argue that the professional debt collector needs to be regulated and that laws already exist to control the practices of other creditors.\textsuperscript{162} However, this author suggests that the federal legislation should follow the pattern of the state debt collection practices acts;\textsuperscript{163} its proscriptions should apply to all debt collection efforts.

A more serious challenge is that the law would infringe upon a state's right to fashion its own remedies and would overburden fed-

\textsuperscript{155} H.R. 10191, 94th Cong., 1st Sess. § 812 (1975).


\textsuperscript{157} See Berger, supra note 7, at 329; Hearings, supra note 6, at 327.

\textsuperscript{158} See text accompanying notes 76-79 supra.

\textsuperscript{159} H.R. 10191, 94th Cong., 1st Sess. § 811(f) (1975).

\textsuperscript{160} Id. §§ 816-17.

\textsuperscript{161} See notes 132, 136-45 and accompanying text supra.

\textsuperscript{162} See note 124 supra.

\textsuperscript{163} See notes 100-04 and accompanying text supra.
eral courts with cases that should be within each state's jurisdiction. The act, however, would not supercede state laws which afford equal or greater protection to the consumer.\textsuperscript{164} Although opponents of increased federal authority may claim that the failure of state legislatures to enact laws reflects sentiment disfavoring debtor protection,\textsuperscript{165} Congress has relied on the commerce clause to enact the Consumer Credit Protection Act,\textsuperscript{166} and under the commerce clause Congress has lawfully preempted state prerogatives in the interest of national uniformity at other times.\textsuperscript{167} Moreover, congressional enactment of uniform regulations which are not constrained by the locality of the affected parties' residences or transactions would not be illogical or unprecedented.\textsuperscript{168} To insure effective consumer protection, standards should be uniform and easily determinable; it has already been demonstrated that the existing fragmented state laws are insufficient for this purpose. Adoption of the Debt Collection Practices Act by Congress is perhaps the best way to procure adequate and uniform protection for the harassed debtor.

V. CONCLUSION

Comprehensive legislation, similar to that enacted by other states and the federal bill pending in Congress, is essential to prevent unethical collection techniques in Pennsylvania. Unfortunately, an Unfair Debt Collection Practices Law,\textsuperscript{169} which included provisions

\begin{itemize}
\item \textsuperscript{164} H.R. 10191, 94th Cong., 1st Sess. §§ 819-20 (1975).
\item \textsuperscript{165} For the legislative history of comprehensive debtor protection legislation in Pennsylvania see note 89 supra.
\item \textsuperscript{169} See note 89 supra.
\end{itemize}
similar to the state and federal protective measures that have been discussed, died in the Pennsylvania General Assembly in 1974 because legislators could not agree on the final form of the bill. Although the bill was reintroduced in 1975, it has not seen final Senate action. Without passage of this or similar legislation, the Pennsylvania debtor is practically left to suffer unreasonable collection abuses unaided by the state.

Congress has already passed the Consumer Credit Protection Act and the adoption of the proposed Debt Collection Practices Act is a logical step in the development of comprehensive, consumer-oriented legislation. Passage of the legislation would provide uniform control of creditor practices and guarantee protection to those debtors whose states, like Pennsylvania, have not taken sufficient action to protect their rights.

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